

BARNABAS HEALTH

POLICY # HIE-15

INFORMATION TECHNOLOGY AND SERVICES

POLICY

TITLE: Enforcement and Sanctions

EFFECTIVE DATE: 6/18/2015

APPROVED BY: 

System: System Chief Information Officer/
Barnabas Health

Date: 8/6/2015

ATTACHMENTS:

None

PURPOSE:

To provide a process for response if a Participant or Authorized User is suspected or determined to be out-of-compliance with or in violation of any BHIE Policy, federal or state law requirements.

POLICIES:

1. Enforcement by Participant

- a. Each BHIE Participant must require, by incorporation into its own policies, agreements or otherwise, that such Participant's Authorized Users shall comply with the BHIE Policies when accessing and using the BHIE.
- b. Each Participant shall enforce compliance with these BHIE policies with regard to their own Authorized Users.
- c. If a Participant learns of or suspects a violation of any BHIE Policy, Participant shall report such violation to the BHIE Privacy Officer and/or BHIE Security Officer. This reporting does not relieve the Participant from its own continuing duty to take appropriate disciplinary action against its workforce for violations of its internal policies.

- d. A Participant shall require its own respective Authorized Users to report violations to that Participant, and shall adopt appropriate internal disciplinary action for failure to do so.
- e. Participant, using its internal policies, shall take appropriate disciplinary action against Authorized Users, workforce, agents and contractors who violate any BHIE Policy, federal or state law governing the use and disclosure of a Patient's Data.

2. Enforcement by BHIE

a. Investigatory Period & Administrative Suspension.

- The BHIE Steering Committee shall authorize the BHIE Program Manager, BHIE Privacy Officer, BHIE Security Officer, Barnabas VP for Internal Audit to establish operational procedures for **auditing** compliance with the BHIE Policies and for **conducting investigations** upon discovery of potential non-compliant events and upon receipt of a Complaint.
- During any investigation, a Participant's or Authorized User's access to the BHIE **may be temporarily suspended** (an "Administrative Suspension") for up to **5 business days** at the discretion of the BHIE Program Manager, BHIE Privacy Officer, or BHIE Security Officer until the investigation is completed.
- If the investigation requires more than 5 business days, either the BHIE Program Manager, BHIE Privacy Officer or BHIE Security Officer shall request a continuation of the Administrative Suspension from the BHIE Steering Committee, pending completion of the investigation.
- Based on the findings of the audits and discovery activities ("Findings"), the BHIE Program Manager shall present such Findings to the HIE Council in a timely manner for its review and determination to impose Sanctions, if any.

b. BHIE Steering Committee Determination and Sanctions.

- Upon receiving the Findings, the BHIE Steering Committee shall meet to deliberate and make a "**Determination**" with regard to whether Sanctions should be imposed upon a Participant and/or Authorized User(s).
- The Chief Medical Officer (CMO) shall NOT participate in the BHIE Steering Committee's deliberation or Determination so that the CMO's role can be preserved for any potential appeal (see §15.D(6)).
- Based on the Findings, the BHIE Steering Committee shall render a Determination whether or not to impose a Sanction in accordance with the following:
 - Based on its interpretation of the findings and the severity of the violation, the BHIE Steering Committee may issue a Sanction against

a Participant or Authorized User. Examples of the types of **Sanctions** that may be imposed include:

- An **extended period of full suspension** from the HIE (e.g., several months);
 - Establishment of a **probationary period** for **continued use** of the BHIE in the manner in which it was previously used subject to terms established by BHIE;
 - Establishment of a **probationary period** for continued **restricted use** of the BHIE (e.g., usage is limited to the BHIE portal or for selected care scenarios). During this probationary period, the HIE shall conduct frequent audits to ensure the sanctioned Authorized User's and/or Participant's full compliance with the BHIE policies and applicable law; and
 - **Termination** of use of the BHIE, including IMMEDIATE TERMINATION OF ACCESS to the BHIE for finding of an egregious violation or a confirmed violation of HIPAA, or some other federal or state law.
- At its discretion, the BHIE Steering Committee may issue a Sanction against a Participant and its entire staff of Authorized Users, or to selected Authorized Users who are employees or agents of the Participant.
 - Any Sanctions imposed by the BHIE Steering Committee against an Authorized User or a Participant will affect only an Authorized User's and/or Participant's rights with regard to the BHIE and under the Participation Agreement. All specific "employment" and/or other "disciplinary" actions that may be taken against any Authorized User or member of a Participant's workforce are reserved to the respective employing or credentialing Participant.
 - If the BHIE Steering Committee determines to impose a Sanction on an Authorized User or particular Participant, the fact that the Sanction has been imposed will be disclosed to and may be separately reviewed by an oversight, enforcement or credentialing body of Barnabas such as the Medical Staff or Medical Executive Committee of the Participant and the BHIE Steering Committee will furnish to such separate enforcement body such relevant information about the Authorized User or Participant required to allow such separate enforcement body to evaluate and investigate whether any additional disciplinary or other action should be separately taken against such Authorized User and/or Participant. Other than as set forth above, any such additional disciplinary actions that may be taken against an

Authorized User or Participant are in the sole discretion of such separate oversight body.

- The BHIE Steering Committee shall transmit its determination to the affected Participant(s) and/or Authorized User(s) by letter via the U.S. Postal Service or a commercial delivery service. The determination letter shall specify whether a Sanction has been imposed or not.
- If a Sanction is being imposed, then the terms and duration of the Sanction, as well as any rights the recipient of the Sanction may have to submit a request for reconsideration or appeal the BHIE Steering Committee's determination, will be set forth in the determination letter.
- If the BHIE Steering Committee determines not to impose any Sanctions, then the administrative suspension shall immediately end and the Participant(s) and/or Authorized User(s) ability to access and use the BHIE shall be reinstated in full.
- The BHIE Steering Committee shall follow all federal and state laws regarding reporting of legal violations to state and federal authorities and shall cooperate with state and federal authorities for any investigation that such authorities may initiate.

QUALIFICATIONS: NA

EQUIPMENT: NA

PROCEDURE:

DOCUMENTATION: NA

INFECTION CONTROL: NA

SAFETY: NA

SECURITY OVERSIGHT GROUP (SOG) Approve for Release:

REFERENCES:

ORIGINAL DATE: 6/18/2015

REVIEWED DATE(S):

REVISED DATE(S):